

ARKANSAS SUPREME COURT

No. CR 06-584

NOT DESIGNATED FOR PUBLICATION

MICHAEL L. VENN
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered October 12, 2006

PRO SE MOTIONS FOR
CONSIDERATION OF
SUPPLEMENTAL POINTS ON
APPEAL AND FOR LEAVE TO FILE
PRO SE SUPPLEMENTAL BRIEF
[APPEAL FROM THE CIRCUIT
COURT OF BENTON COUNTY, CR
2002-1141, HON. TOM J. KEITH,
JUDGE]

MOTIONS DENIED

PER CURIAM

A jury found appellant Michael L. Venn guilty of rape and sentenced him to twenty years' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed the judgment. *Venn v. State*, CACR 04-1315 (Ark. App. November 2, 2005). Appellant timely filed in the trial court a *pro se* petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied. Counsel representing appellant has lodged an appeal of that order in this court. Now before us are appellant's *pro se* motions requesting first, that we consider all arguments raised in his petition or order his attorney to prepare a brief covering each point in the petition, and second, that we allow appellant to file a *pro se* supplemental brief on those points.

Appellant does not request that his attorney be relieved so that he may be permitted to proceed *pro se*. Appellant seeks instead to have this court consider his own *pro se* arguments in

addition to those presented by counsel. An appellant is not entitled to accept appointment of counsel to represent him, and also proceed *pro se*. *Hamilton v. State*, 348 Ark. 532, 74 S.W.3d 615 (2002). Moreover, this court will not permit an appellant to compete with his attorney to be heard in an appeal. *Franklin v. State*, 327 Ark. 537, 939 S.W.2d 836 (1997) (*per curiam*); *see also Monts v. Lessenberry*, 305 Ark. 202, 806 S.W.2d 379 (1991) (*per curiam*).

Both motions request, in effect, that we permit appellant to supplement the brief with his own *pro se* arguments, either those in a supplemental brief or those in his petition. Alternatively, he requests us to compel his attorney to brief the points. While appellant indicates his concern that these points will not be preserved for later review in the federal court system, he does not provide any facts or citation to authority that indicate any of these points might indeed be meritorious.

An appellant is not permitted to supplement a brief filed by counsel unless he clearly shows that counsel's brief is lacking. *Gidron v. State*, 312 Ark. 517, 850 S.W.2d 331 (1993) (*per curiam*) (citing *Wade v. State*, 288 Ark. 94, 702 S.W.2d 28 (1986) (*per curiam*)). Counsel's brief, in fact, addresses each point raised by appellant in his petition, although counsel only asserts that one issue had merit. Appellant has made no showing of any deficiency in the brief. A brief will not be held deficient merely because the appellant is dissatisfied with the arguments made or the issues raised. *Dokes v. State*, 299 Ark. 178, 772 S.W.2d 583 (1989) (*per curiam*).

Because counsel has briefed the points that appellant has requested be briefed, there is no need to order additional briefing by counsel in response to appellant's motion. Nor will we permit appellant to supplement the brief, as he has not shown that the brief was deficient. Accordingly, both motions are denied.

Motions denied.

